THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO.10667 OF 2004

Dated: 22nd November, 2005.

Between:

A. Nagarjuna … Petitioner

And

1. The Government of A.P., rep. by its Secretary, Law Department, Secretariat Buildings, Hyderabad.
2. The District Collector, Kadapa, Kadapa District. … Respondents

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ORDER :

The petitioner seeks a Writ of Mandamus declaring G.O.Rt.No.1030, Law (L1) Department, dated 15-6-2004 as arbitrary and illegal.

The petitioner is a practising advocate in the Courts at Kadapa town. It is claimed that he has a standing of nearly 18 years and by G.O.Rt.No.1035, Law Department, dated 31-05-2003, he was appointed as Government Pleader for the District and Sessions Judge's Court, Kadapa for a period of three (3) years. Thus, he is entitled to continue upto 31-5-2006. However, it appears that he underwent Kidney Transplantation on 31-05-2004, due to which he could not attend the Courts for some period. During the said period, the impugned order G.O.Rt.No.1030, Law (L1) Department, dated 15-06-2004 was issued dispensing with the services of the petitioner with immediate effect by giving honorarium for one month in lieu of one month's notice and calling for a panel of five (5) names from the eligible advocates belonging to SC, ST, BC, OC and Women. Questioning the said order, this writ petition is filed contending that the impugned order which was passed without notice to the petitioner is arbitrary, illegal apart from being violative of the principles of natural justice.

On behalf of the first respondent, a counter-affidavit has been filed stating that during the absence of the petitioner the District Collector, Kadapa vide proceedings dated 4-2-2004 and 12-4-2004 placed in-charge Government Law Officer of neighbouring station and one advocate to the post of Government Pleader for the District & Sessions Court, Kadapa. However, they were not able to cope up with the work in the Courts at kadapa Head-quarters as many Government cases had come up for hearing. That apart, the Special Collector, Telugu Ganga Project, Nellore vide letter dated 11-2-2004 reported that the petitioner was unable to monitor the Court cases on account of his ill-health. Hence, the impugned order was passed in terms of Clause (9) of The A.P. Law Officers (Appointment and Conditions of Service) Instructions, 2000 dispensing with the engagement of the petitioner as Government Pleader.

Heard both sides and perused the material on record.

It is relevant to note that The A.P. Law Officers (Appointment and Conditions of Service and Remuneration) Rules, 1967 were repealed under G.O.Ms.No.55, Law, dated 16-3-1990 and the same were replaced by the Executive Instructions under G.O.Ms.No.57, Law, dated 16-3-1990. In supersession of the Government Orders on the subject, Government issued A.P. Law Officers (Appointment and Conditions of Service) Instructions, 2000 vide G.O.Ms.No.187, Law, dated 6-12-2000 under which it is permissible to dispense with the engagement on payment of honorarium in lieu of one month's notice.

A perusal of clause (9) of The A.P. Law Officers (Appointment and Conditions of Service) Instructions, 2000 shows that it is open to the Government to give one month's notice or one month honorarium in lieu of one month's notice before dispensing with the engagement of the Government Pleader. In the case on hand, admittedly, the petitioner was paid honorarium in lieu of one month's notice. It is also not in dispute that he was not keeping good health. In the circumstances, I am unable to find fault with the impugned order. As can be seen, dispensing with the petitioner's engagement as Government Pleader is not by way of punishment, but it is only an order simplicitor without casting any stigma on him. It is nothing but simple termination of client and counsel relationship.

The law is well settled that such an order of simple termination without casting any stigma which is in accordance with the Rules in force does not warrant any interference in exercise of jurisdiction under Article 226 of the Constitution of India.

Hence, the Writ Petition is devoid of any merit and the same is dismissed. No costs.

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22nd November, 2005.

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